



DEPARTMENT OF THE NAVY
NAVAL FACILITIES ENGINEERING COMMAND WASHINGTON
1314 HARWOOD STREET SE
WASHINGTON NAVY YARD DC 20374-5018

IN REPLY REFER TO:

5720
DON-NAVY-2020-007103
June 29, 2020

Ms. Connie Cassady
Gordon Rees Scully Mansukhani
325 W. Main Street
Waterfront Plaza Suite 1810
Louisville, KY 40202

Subj: YOUR FOIA REQUEST (DON-NAVY-2020-007103)

Dear Ms. Cassady,

This letter is in response to your Freedom of Information Act (FOIA) request of April 3, 2020, for information pertaining to project P561 Aircraft Prototype Facility, contract number N40080-10-D-0492-DO0008. The following are the rescoped items agreed to on May 18, 2020:

1. A copy of the contract between the Owner and Contractor on the Project, especially any portion of such contract identifying the amount and ability to assess liquidated damages against Contractor.
2. A copy of the last pay application from Contractor, including any certifications that such Contractor paid Subcontractor (or all subcontractors) from amounts paid.
3. A copy of all documents reflecting amounts paid to Contractor for its work on the Project, including but not limited to, documents that would reflect the dates such payments were made and the amounts of such payment. This could be a log or spreadsheet rather than multiple documents.
4. A copy of all Prompt Payment Certifications submitted by the Contractor on this Project.
5. A copy of all executed Modifications or Change Orders on the Project.

6. A copy of all documents reflecting any final withholdings by Owner from Contractor on the Project for liquidated damages, backcharges, or other offsets and the basis for such offsets.

7. Proof that no liquidated damages were ultimately assessed against Contractor on the Project.

8. All documents reflecting the proof of the cause of liquidated damages which were either alleged or assessed against Contractor.

We have enclosed 103 records which are being released to you in part, pursuant to 5 U.S.C. § 552 (b)(4) & (b)(6) of the FOIA. Exemption 4 allows an agency to withhold trade secrets and commercial or financial information obtained from a person that is privileged or confidential. Exemption 6 allows an agency to withhold personal information that, if disclosed, would constitute a clearly unwarranted invasion of personal privacy.

You have the right to an appeal. It must be received within 90 calendar days from the date of this letter. Please provide a letter requesting an appeal, with a copy of your initial request and a copy of the letter of denial, in an envelope marked "Freedom of Information Act Appeal." You are encouraged (though not required) to provide an explanation why you believe the redactions were inappropriate or our search was inadequate. Also, please provide a copy of your appeal letter to us at Naval Facilities Engineering Command Washington, 1314 Harwood Street, SE, Washington Navy Yard, DC 20374.

There are two ways to file an appeal—through FOIAonline or by mail.

1. Through FOIAonline: Go to <https://www.foiaonline.gov/foiaonline/action/public/home/>. Locate your request (enter a keyword or the request tracking number in the "Search" field), click on it, then the "Create Appeal" tab in the left-hand column. Complete the subsequent field, click "Save," and FOIAonline will submit your appeal.

2. By mail: Address your appeal to:

Department of the Navy
Office of the General Counsel
1000 Navy Pentagon, Room 5A532
Washington, DC 20350-1000

If you have any questions, please contact the FOIA coordinator at abby.machalec@navy.mil, (202) 685-9269. You may also contact the Department of the Navy (DON) FOIA Public Liaison, Christopher Julka, at christopher.a.julka@navy.mil, (703)697-0031. In addition, the Office of Government Information Services (OGIS) provides a voluntary mediation process for resolving disputes between persons making FOIA requests and the DON. For more information, go to <https://www.archives.gov/ogis/about-ogis/contact-information>.

Sincerely,

B. M. VOGEL
By direction